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January 20, 1998

Mr. K. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

IN RE: BellSouth Telecommunications, Inc.'s Entry Into Long Distance  
(InterLATA) Service in Tennessee Pursuant to Section 271 of the  
Telecommunications Act of 1996  
Case No. 97-00309

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of NEXTLINK Tennessee, L.L.C.'s  
"Motion to Delay Proceedings" filed in the above styled case.

Please provide Director Melvin J. Malone a copy of this motion in advance of the  
status conference scheduled for January 22, 1998 at 9:00 a.m.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Shaffer".

Dana Shaffer, Director  
Legal & Regulatory Affairs

Enclosure

cc: Parties of Record

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**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**'97 JAN 20 AM 10 30**

**IN RE:       BELLSOUTH TELECOMMUNICATIONS, INC.'S ENTRY INTO LONG  
DISTANCE (InterLATA) SERVICE IN TENNESSEE PURSUANT TO  
SECTION 271 OF THE TELECOMMUNICATIONS ACT OF 1996**

**CASE NO. 97-00309**

**MOTION TO DELAY FURTHER PROCEEDINGS UNTIL  
AFTER COMPLETION OF THE "PERMANENT PRICING" DOCKET**

For the reasons set forth below, NEXTLINK Tennessee, L.L.C. ("NEXTLINK") respectfully requests that the Tennessee Regulatory Authority delay the filing of testimony and the proposed hearing in this proceeding until the TRA has issued a final order in docket 97-01262, "Petition to Establish Permanent Prices for Interconnection and Unbundled Network Elements" (the "Permanent Pricing docket"). Until the TRA has completed that docket and established permanent, cost-based interconnection rates, BellSouth Telecommunications, Inc. ("BellSouth") cannot meet the requirements of sub-sections (i), (ii), (iii), and (xiii) of the "Competitive Checklist" prescribed in Section 271(c)(2)(B) of the Federal Telecommunications Act of 1996, and continuation of this proceeding, which is designed, in part, to determine BellSouth's compliance with the checklist, would be futile.

The TRA's obligation under the federal Act is to provide input to the FCC as to BellSouth's compliance with Section 271(c). See Section 271(d)(2)(B). Section 271(c) includes compliance with the fourteen point Competitive Checklist. However, as stated by the TRA Staff in its report on BellSouth Entry Into Long Distance Service (InterLATA) in

Tennessee, February 18, 1997 ("TRA Staff Report"), BellSouth cannot comply with the checklist in the absence of permanent interconnection prices.<sup>1</sup>

Based on the TRA's current schedule, the agency will not make a final decision in the Permanent Pricing docket until mid-summer. The parties are scheduled to file reply comments on May 29, 1998. Presumably a decision will be announced in mid to late June and a written order issued a few weeks later. Only then, if then, will the TRA be able to consider whether BellSouth is offering interconnection at cost-based prices in accordance with the requirements of the checklist.

BellSouth itself apparently agrees that the Permanent Pricing docket must be concluded before the carrier files its application with the FCC. Based on the "draft" application filed by BellSouth on January 16, 1998, BellSouth does not intend to file its application until *after* the TRA has issued its final decision in the Permanent Pricing docket. In the "Brief in Support" of BellSouth's application, the company repeatedly refers to the TRA's pricing decision as having already been made. *See, e.g.*, p. 38 ("After in-depth cost-proceedings . . . the TRA established cost-based interconnection rates that have been incorporated into the Statement.") Thus, it appears BellSouth does not intend to file this Brief or the Application until after the TRA's final order has been issued and permanent interconnection rates have been fixed.<sup>2</sup>

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<sup>1</sup> See TRA Staff Report at page 4 ("While the proxy rates may be helpful in executing early interconnection activity, the staff believes that the law is quite clear in its intent to have the rates for these 4 checklist items (i.e. 1,2,3, and 13) based on cost. For this reason, the staff believes that BellSouth should not be certified as in compliance with these items until new cost studies are complete, and permanent rates are set.").

<sup>2</sup> BellSouth's Dec. 12 "Notice of Filing" stated that BellSouth intended to file its FCC application "on or after March 12, 1998." As BellSouth is aware, however, the FCC has

Furthermore, one of the purposes of the TRA's review is to advise the FCC regarding the status of facilities-based, local exchange competition in Tennessee at the time of BellSouth's application. For that reason, BellSouth's draft application includes a substantial amount of testimony and data about the activities of BellSouth's local competitors. That information, however, may well be outdated by July when BellSouth actually files its application. Similarly, the testimony of other parties, now scheduled to be filed in January, will be of limited use to the FCC in determining the status of competition six months from now.

Under these circumstances, the TRA should suspend the filing of testimony and the proposed hearing until the agency has completed the Permanent Pricing docket. After that time, BellSouth should be required to refile its Section 271 application which will presumably incorporate the TRA's findings in the Permanent Pricing docket. BellSouth's revised filing should be submitted at least sixty to ninety days before BellSouth files the application with the FCC to give the TRA adequate time to evaluate the application and make a determination as to BellSouth's compliance with Section 271(c) at the time of BellSouth's actual filing with the FCC.

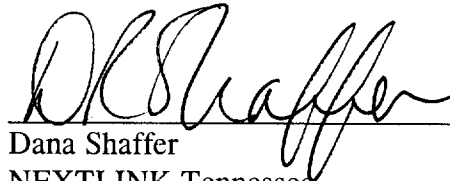
There is no apparent reason for BellSouth to submit its 271 application to the TRA six months or more before BellSouth intends to file with the FCC. The TRA cannot provide the FCC with accurate and timely verification of BellSouth's claims unless the Authority postpones further proceedings until after the Permanent Pricing order has been

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ruled that the application must be complete on the date it is filed. See Memorandum Opinion and Order, Application of Ameritech Michigan Pursuant to Section 271 of the

issued.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D Shaffer', is written over a horizontal line.

Dana Shaffer  
NEXTLINK Tennessee  
105 Molloy Street, Suite 300  
Nashville, TN 37201

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Communications Act of 1934, as Amended, to Provide In-Region, InterLATA Services in Michigan, CC Docket No. 97-137, FCC No. 97-298 (rel. Aug. 19, 1997), paragraphs 49-50.